

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5738

PETITION OF DONNA YESNER
(Hearing held April 17, 2002)

OPINION OF THE BOARD
(Effective date of Opinion, May 31, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a) of the Zoning Ordinance. The proposed construction of a one-story addition requires a 7.33 foot variance as it is within 17.67 feet of the front lot line. The required setback is twenty-five (25) feet.

The subject property is Lot 8, Block 12, Greenacres Subdivision, located at 5323 Allandale Road, Bethesda, Maryland, in the R-60 Zone (Tax Account No. 00563676).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a one-story addition at the front of the existing two-story single-family dwelling.
2. The petitioner testified that she has drainage problems on the property due to the slope of the land at the front of the dwelling, i.e., water collects and freezes at a location about 6 feet in front of the front door.
3. John Lowe, the petitioner's architect, testified that the relocation of the front door of the residence with the construction of an entrance foyer would eliminate the drainage problems at the property. He also testified that there were means other than building an addition which would resolve the petitioner's drainage issues.

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards set forth in Section 59-G-3.1(a) as follows:

- (a) *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the petitioner's property has no exceptional topographical or other conditions peculiar to the property. Although the property has drainage problems, it shares this same characteristic with other neighboring properties. The petitioner's architect testified that the construction of the addition was not the only solution to the petitioner's drainage issues. Further, the existing slopes on the other neighboring properties are even more severe. See, Exhibit No. 5.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Allison Ishihara Fultz, seconded by Louise L. Mayer, with Donna L. Barron, Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 31st day of May, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-

4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.